the Collocation Model sponsored by AT&T and MCI. (Redmond Surrebuttal at 5-6; BellSouth Brief at 43-44.)

In particular, Ms. Redmond argued that the Collocation Model is not practical for real collocation arrangements for various reasons. She testified that only a very few CLECs, to date, have placed Bona Fide Firm Orders for physical collocation arrangements of 100 square feet (18.4 percent). She recognized that the model could easily be converted to two 10-foot by 20-foot cages with a center aisle, allowing for another 44.9 of the CLECs, but asserted that the model would not work for the remaining 36.7 percent of the collocators at all. Ms. Redmond also asserted that the model's placement of the POT bay and BDFB's in the center aisle is not practical. BellSouth believes that one large, commonly shared collocation space is more practical and economical for such reasons as the sharing of HVAC, lighting, alarms, controls, electrical distribution, etc. Therefore BellSouth concludes that the facilities and the spaces within them are so unique that individual planners should carefully evaluate each facility upon inquiry, for the best overall plan. (Redmond Surrebuttal at 6-7.)

Ms. Redmond also testified that out of 191 central offices in Georgia, only 45 have electronic security card systems as the Collocation Model assumes, because they cost $10,000 per door. This is why placing collocation areas in space where ingress / egress renovations are minimal is very important to BellSouth's planning process. (Redmond Surrebuttal at 9.)

In addition, whereas the Collocation Model refers to competitive bidding for reducing construction costs, BellSouth does not bid collocation projects because that would unduly lengthen the time frame for meeting a Bona Fide Firm Order for physical collocation. Contracts with several CLECs and at least one state commission provide that this time frame will be as short as 90 days maximum; therefore, Ms. Redmond stated, projects to construct physical collocation arrangements must be negotiated with general contractors under a BellSouth master agreement. She explained that samples of projects below $100,000 were submitted to multiple contractors in Florida, Louisiana, North Carolina and South Carolina for bids. The result was the guarantee of cost plus a percentage lower than standard for jobs of this size on negotiated projects below $100,000. This figure was then used to negotiate the same deal with contractors in the other five BellSouth states, including Georgia. Projects of over $100,000 are always bid unless time is a factor, in which case the project will be negotiated under the cost-plus agreement just mentioned. When time is a factor in very large projects (for example, one million dollars), the master agreement includes negotiating the cost-plus fee down as low as 4 percent. BellSouth believes that this process is cost-efficient and provides assurance, through repetition with a small number of contractors, a technical proficiency for working in BellSouth facilities. (Redmond Surrebuttal at 9-11.)

Ms. Redmond also took issue with AT&T and MCI's use of the R.S. Means data book for building construction costs. She agreed that it is perhaps the best estimating tool of its type on the market, but cautioned that it must be used in the proper context. Using a "mean" number when estimating can be misleading and can be skewed from reality, she testified; although BellSouth uses the R.S. Means occasionally, it does so only when data from previous jobs or from contractor

invoices and estimates are not available. (Redmond Surrebuttal at 12.) Ms. Redmond also criticized the AT&T/MCI approach to barriers and enclosure walls, and testified that BellSouth must use precautionary measures during construction and ensure safety through the placement of a gypsum board wall with rigid security fencing at the top to separate BellSouth equipment spaces from collocators' equipment spaces. BellSouth will use the same wall, minus the security fencing, to separate the collocators from each other when an enclosure is requested. Ms. Redmond specifically criticized the use of wire mesh fencing on the basis that it would be too easy for a maintenance worker to contact the wire fence. Further, she argued that CLECs should bear such costs as those associated with the Americans with Disabilities Act, demolition and asbestos removal when necessary, code-required upgrades, etc. Ms. Redmond concluded that the construction and the costs represented by BellSouth's estimates are fair and reasonable, and will compensate BellSouth for the legitimate expenses incurred when preparing space for physical collocation. (Redmond Surrebuttal at 14-16, 17-20.)

The Staff noted that BellSouth's cost proposal for the construction of space enclosures is $45 per square foot. However, for space preparation BellSouth proposed an Individual Case Basis ("ICB"), which the Staff submitted is an obstacle to competition because it introduces unnecessary uncertainty into the process of obtaining physical collocation. This represents a significant economic barrier to physical collocation, and ultimately facilities-based competition. Both the Georgia Act and the 1996 Act indicate strong legislative goals of fostering greater competition, especially facilities-based competition. On the other hand, the AT&T/MCI Collocation Model assumes that the CLEC will not bear any space preparation charge, which does not appear to be reasonable. Therefore the Staff recommended that a specific, albeit reasonable charge be adopted for space preparation in order to encourage physical collocation.

In order to develop a reasonable space preparation charge on a per-foot basis, the Staff reviewed the actual experience of a CLEC, specifically MGC. MGC witness English, President of MGC's eastern region, presented testimony showing that the combined cost for space preparation for three Atlanta metropolitan locations (Buckhead, Dunwoody, and Sandy Springs) total $317,221. Thus the average space preparation fee per location is $105,740. (English Direct at 3.) BellSouth's collocation agreements on file with the Commission reflect that MGC has purchased 100 square feet per central office. This yields an average cost of $1057.40 per square foot for space preparation. The Staff concluded that a reasonable specific charge of $100 per square foot should be adopted for space preparation, and that this would be in line with BellSouth's $45 per square foot charge for space enclosure construction. The Staff's proposed $100 per square foot space preparation charge would be correlated to the actual enclosed collocation space. When a CLEC submits an application for physical collocation, the initial minimum amount of space would be 100 square feet, and extra space would be calculated in 50-square foot increments.

The Staff also recommended that a CLEC be able to construct a wire cage, at the CLEC's option. Therefore a CLEC should not be limited to the gypsum (plywood) as proposed by BellSouth. The Staff stated that the same rates should apply to either the wire cage or gypsum (plywood).

Discussion

The Commission agrees that approving a specific price of $45 per square foot for the construction of space enclosures, but allowing an Individual Case Basis ("ICB") for space preparation would be an obstacle to competition because it introduces unnecessary uncertainty into the process of obtaining physical collocation. This represents a significant economic barrier to physical collocation, and ultimately facilities-based competition. Both the Georgia Act and the 1996 Act indicate strong legislative goals of fostering greater competition, especially facilities-based competition. The Commission agrees that a specific, albeit reasonable charge should be adopted for space preparation to encourage physical collocation.

The Commission notes BellSouth's argument that the cost-based pricing rules of Section 252(d) do not apply to collocation. However, Section 251(c)(6) provides that collocation be provided at rates, terms, and conditions that are just, reasonable, and nondiscriminatory. Allowing collocation rates that are reasonably based upon cost will be consistent with this statutory mandate.

The Commission has reviewed the Staff's approach to developing a reasonable, per-square foot space preparation charge, and finds it just, reasonable, and nondiscriminatory. The Commission concludes that $100 per square foot is a reasonable specific charge for space preparation, which also comports with BellSouth's $45 per square foot charge for space enclosure construction. The $100 per square foot space preparation charge must be correlated to the actual enclosed collocation space. When a CLEC submits an application for physical collocation, the initial minimum amount of space should be 100 square feet, and extra space should be calculated in 50-square foot increments.

A collocating CLEC shall be permitted to have a wire cage, at the CLEC's option. Therefore a CLEC should not be limited to the gypsum (plywood) alternative, although the same rates should apply to either the wire cage or gypsum (plywood).

D. Rates for Access to Poles, Ducts, Conduits, and Rights-of-Way

Most of the parties focused more attention on other aspects of this proceeding than on the rates for access to poles, ducts, conduits, and rights-of-way. However, they generally recognized that the FCC has established formulas for computing such rates in an appropriate manner. The FCC rate for pole rental is currently $4.20 per year. BellSouth submitted information on its computations supporting a higher rate (up to approximately $20), but indicated that it would not seek approval for such a higher rate at this time. The Staff recommended that the Commission adopt the current rate according to the FCC formula, which produces a pole rental rate of $4.20.

The Cable Television Association of Georgia ("CTAG") criticized BellSouth's proposed rates on the basis that they advance two inherently contradictory positions regarding pole attachments and other rights-of-way. On the one hand, stated CTAG, BellSouth proposed that rates currently in effect in numerous license agreements and interconnection agreements be used as permanent rates. (CTAG

Brief at 1, citing BST witness Scheye Direct at 18, Tr. 95.) However, BellSouth also proposed that, pending completion of the FCC rulemaking on pole attachments,[21] the Commission may designate new rates and that this potential change in rates could be defined in the Commission's order. (Scheye Direct at 19, Tr. 96.) BellSouth's cost study calculated a recurring annual cost of $20.46 per foot for access to poles, $0.56 per foot for access to conduit, and $0.44 per foot for access to inner duct. The CTAG pointed out that BellSouth's proposed cost calculations suggest an increase of 387 percent over BellSouth's current tariffed rates for access to poles at $4.20 per foot per year, according to the FCC's formula. (CTAG Brief at 2.) The CTAG cited the testimony of Ms. Kravtin who calculated two different sets of cost results to compare with the BellSouth analysis, both of which resulted in dramatically lower cost calculations. (CTAG Brief at 7-9, citing Kravtin Testimony at 22-29, Tr. 2247-2254.)

According to the CTAG, BellSouth's cost study contained several errors in input assumptions underlying the calculation of usable and non-usable space on the pole. The CTAG contended that there is no basis in support of these key input assumptions. Moreover, the CTAG argued that BellSouth's attribution of unusable space directly conflicts with Section 224(e)(2)(3) of the 1996 Act, which provides that "a utility shall apportion the cost of providing space on a pole, duct, conduit, or right-of-way other than the usable space among entities so that such apportionment equals two-thirds of the costs of providing space other than the usable space that would be allocated to such entity under an equal apportionment of such costs among all attaching entities." The CTAG stated that BellSouth's cost study improperly apportioned 100 percent of the costs of unusable space among attaching entities, and furthermore would revise the costs prior to the FCC's planned schedule. The BellSouth formula also differs from the FCC's proposed pole attachment formula with respect to the 40 inches of safety space required under the National Electric Safety code ("NESC Clearance") as unusable space. (CTAG Brief at 4-7.)

The CTAG urged the Commission to continue to rely on the rates and terms established according to the FCC formula, rather than adopt the rates suggested by the BellSouth cost study. This formula has stood the test of time, the CTAG argued, conforms with the mandates of the 1996 Act, and promotes competition, as will any successor FCC formula that becomes applicable. (CTAG Brief at 10-11.) The FCC's current formula in setting the maximum rate for pole attachments multiplies the net (investment) cost of a bare pole by the percentage of usable space that an attachment occupies on an average pole (*i.e.*, the ratio of space occupied by the attachment to total usable space on the pole). Total usable space on the pole is defined as the space on the utility pole above the minimum grade level that is usable for the attachment of lines, cables, and related equipment. The FCC has developed over the years a number of presumptions used in the formula's calculation, including the ratio of space occupied by the attachment to total usable space, which is

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[21] Mr. Scheye's direct testimony (at 19) referenced the FCC's Notice of Proposed Rulemaking (NPRM) issued March 14, 1997 (CS Docket 97-98); Tr. 96. The FCC subsequently issued a NPRM on August 12, 1997 in CS Docket 97-151 regarding pole attachment matters incorporated by reference the comments filed in response to the NPRM cited by Mr. Scheye.

the key determining factor of the maximum rate. (CTAG Brief at 2-3, citing Kravtin Rebuttal at 8, Tr. 2233, and FCC NPRM, CS Docket 97-98, March 14, 1997, at ¶ 8 citing 47 C.F.R. § 1.14004, and FCC NPRM, CS Docket 97-151, August 12, 1997, at ¶ 16 citing Second Report and Order, 72 FCC at 69, 47 C.F.R. § 1.1402(c).) The CTAG concluded that the matter of pole attachment costs is most efficiently and fairly dealt with by the FCC, but if the Commission takes jurisdiction over pole attachment costs, that it should reject BellSouth's faulty analysis and instead adopt a formula and underlying input values that are fully consistent with those adopted by the FCC.

Discussion

The Commission concludes that it is most appropriate to adopt the current pole rental rate according to the FCC formula, which produces a rate of $4.20 per foot per year. The Commission is cognizant that the FCC is reviewing potential revisions to the current pole attachment formula applicable to telecommunications carriers, pursuant to the 1996 Act, and released a NPRM on August 12, 1997 in CS Docket 97-151 proposing revisions that would permit the incumbent LEC to apportion costs among attaching entities so that each entity is allocated two-thirds of the amount it would be allocated under an equal apportionment of the costs of usable space among all entities attaching. The revisions are not to become effective until February 8, 2001, and any subsequent increases in rates for pole attachments would be phased in with equal annual increments over a period of five years. In the meantime, the current FCC formula has proven to be a reasonable, cost-based approach to setting pole rates.

The Commission accepts the remaining rates proposed in this docket by BellSouth with respect to access to poles, ducts, conduits, and rights-of-way. However, the Commission notes that the rate for dark fiber as an unbundled network element must be charged on a per-foot basis, and not limited to charging on a per-mile basis, consistent with the Commission's previous rulings (*e.g.* Dockets No. 6801-U and 6865-U) regarding rate design for this element.

IV. CONCLUSION AND ORDERING PARAGRAPHS

The Commission finds and concludes that the rates, terms and conditions as discussed in the preceding sections of this Order should be adopted for the interconnection with and unbundling of BellSouth's telecommunications services in Georgia, pursuant to Sections 251 and 252 of the Telecommunications Act of 1996 and Georgia's Telecommunications and Competition Development Act of 1995. These will result in a balanced set of rates and charges for BellSouth's interconnection including collocation, unbundled network elements, and access to poles, ducts, conduits, and rights-of-way.

WHEREFORE THE COMMISSION ORDERS that:

A. The cost-based rates determined by the Commission in the preceding sections of this Order, and set forth in the Price Schedule in Appendix A hereto, are established as the rates for BellSouth's interconnection, collocation, access to poles, ducts, conduits, and rights-of-way, and unbundled network elements. BellSouth shall submit such compliance filings as are necessary to reflect and implement the rates established by this Order.

B. Following its implementation of long-term electronic interfaces for OSS functions that were scheduled for the end of December 1997, BellSouth shall submit a detailed report of its electronic interface costs for the Commission's review.

C. All statements of fact, law, and regulatory policy contained within the preceding sections of this Order are hereby adopted as findings of fact, conclusions of law, and conclusions of regulatory policy of this Commission.

D. A motion for reconsideration, rehearing or oral argument or any other motion shall not stay the effective date of this Order, unless otherwise ordered by the Commission.

E. Jurisdiction over these matters is expressly retained for the purpose of entering such further Order or Orders as this Commission may deem just and proper.

The above by action of the Commission in Administrative Session on the 21st day of October, 1997.

Terri M. Lyndall
Executive Secretary

December 16, 1997
Date

Stan Wise
Chairman

12-16-97
Date

ATTACHMENT 2

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Application by BellSouth Corporation,	)	CC Docket No. _____
BellSouth Telecommunications, Inc.,	)	
and BellSouth Long Distance, Inc., for	)	
Provision of In-Region, InterLATA	)	
Services in Louisiana	)	

Affidavit of Alphonso J. Varner on Behalf of BellSouth

as required in Article 800 of the National Electric Code 1996 (copyright 1995 National Fire Protection Association). Combinations of sub-loop elements that include the NID are available to CLECs; BellSouth will furnish such combinations at the same price the CLEC would pay for the sub-loop elements on an unbundled basis.

87. The rates for these sub-loop elements were ordered by the LPSC in its Pricing Order, and can be found in Attachment A to the Statement.

E. CLEC Requests for Unbundling of Loops "Behind" Integrated Digital Loop Carrier (IDLC)

88. In some states, AT&T has made an issue of its desire for unbundling of loops "behind" integrated digital loop carrier ("IDLC") equipment. The requested network element is a complete contiguous loop from the BellSouth Central Office to the end-user premises, where that loop is provided via IDLC. IDLC comprises loop facilities that include multiple NIDs, distribution media, remote terminal and feeder. The feeder interfaces directly to the digital switch at the DS1 level without the requirement for a central office terminal or other demultiplexing equipment.

89. AT&T desires the ability to utilize single unbundled loops that are integrated into IDLC arrangements. This involves a "splintering" of the integrated loop facilities into discrete (individual) loops and conversion of the digital bitstream (multiple loops) back to analog (individual loops). Such an arrangement would add to the cost of provisioning the unbundled loop. Also, from a voice quality viewpoint, multiple extra conversions from digital to analog and back to digital lower overall

transmission quality due to the voice sampling and encoding techniques used. BellSouth cannot provide an unbundled loop through integrated digital loop carrier facilities.

90. Nevertheless, several alternatives have been investigated for those loops served by IDLC. The following describes the two alternatives that BellSouth has found to be technically feasible and will provide:

91. *Alternative 1: Reassign the loop from an integrated carrier system and use a physical copper pair.* This is a technically feasible alternative in cases where sufficient physical copper pair facilities are available. If sufficient physical copper pairs are available, BellSouth will assign the unbundled loop to a physical copper pair. Available facilities are those that are generally available for use rather than those installed for another specific purpose. Unavailable facilities could include, but are not limited to the following: Unloaded pairs in a loaded area reserved for digital services or limited physical copper pairs placed in a Carrier Serving Area for services that cannot be integrated.

92. *Alternative 2: In the case of Next Generation Digital Loop Carrier ("NGDLC") systems, "groom" the integrated loops to form a virtual Remote Terminal ("RT") set-up for universal service.* In this context, "groom" means to assign certain loops (in the input stage of the NGDLC) in such a way that discrete combinations of multiplexed loops may be assigned to transmission facilities (in the output stage of the NGDLC). This is a technically feasible alternative in cases where NGDLC facilities are available. Both of the NGDLC systems currently approved for use in the BellSouth network have "grooming" capabilities; however, the

availability of this option is limited. Given that NGDLC is still a relatively new technical capability, there is currently an insufficient amount of NGDLC in the BellSouth network to meet AT&T's expected demand. Indeed, in Louisiana and elsewhere, only a small percentage of lines are served via NGDLC. In fact, in Louisiana, of all loops served via digital loop carrier, less than 5% are served via NGDLC. Since some special service circuits cannot be supported through an integrated system, some NGDLC capacity is normally reserved to support those special service circuits through a universal arrangement based on site-specific forecasts. This option is available only where fully approved NGDLC systems are operating. As in the case of Alternative 1 described above, available facilities are those that are generally spare and available for use rather than those placed to meet other specific needs.

F. BellSouth's Proposed Policy Regarding Re-use of Customer Loops for Customers Desiring a Change of Service

93. BellSouth's procedures for reusing customer loops when an end user transfers service from a local service provider ("LEC-A") to a new local service provider ("LEC-B") are described below. These procedures apply irrespective of the local exchange carriers involved (i.e., when LEC-A is BellSouth and LEC-B is a CLEC, when LEC-A is a CLEC and LEC-B is BellSouth or when LEC-A and LEC-B are both CLECs).

94. Procedure:

- Disconnect and reconnect orders to transfer the service will be processed and issued with due dates using current interval guidelines.

ATTACHMENT 3

COMPLETE TRANSCRIPT OF OCTOBER 22, 1997 OPEN SESSION OF THE LOUISIANA PUBLIC SERVICE COMMISSION HELD IN BATON ROUGE, LOUISIANA. PRESENT WERE CHAIRMAN DON OWEN, VICE CHAIRMAN IRMA MUSE DIXON AND COMMISSIONERS DALE SITTIG, JIMMY FIELD AND JAY BLOSSMAN.

budget for Stone, Pigman. Is there any opposition? (NO OPPOSITION VOICED.) Hearing none, it is so ordered. I believe that leaves only two items, doesn't it?

MR. EDDINGTON: Yes, Mr. Chairman. That is Exhibit 40 -- 36.

CHAIRMAN OWEN: We're going to take a break before we get into those.

(OFF THE RECORD.)

(BACK ON THE RECORD.)

CHAIRMAN OWEN: Item Number 36, Brian.

MR. EDDINGTON: Exhibit Number 36 is Docket U-22022 - Louisiana Public Service Commission, ex parte. In re: Review and consideration of BellSouth Telecommunications, Inc.'s TSLRIC and LRIC cost studies submitted pursuant to Sections 901C and 1001E of the Regulations for Competition in the Local Telecommunications Market as adopted by General Order dated March 15, 1996 in order to determine the cost of interconnection services and unbundled network components to establish reasonable, non-discriminatory, cost based tariffed rates. This matter has been consolidated with Docket U-22093 - Louisiana Public Service Commission, ex parte. In re: Review and Consideration of BellSouth Telecommunications' tariff filing of April 1, 1996, filed pursuant to Sections 901 and 1101 in the Regulations for Competition in the Local Telecommunications Market, which introduces interconnection and unbundled services. There's been a rather lengthy recommendation that defies synopsis.

CHAIRMAN OWEN: Yes, I think I may take a lead from Commissioner Field here. Do you want Ms. --

COMMISSIONER FIELD: I'd like to have --

MR. EDDINGTON: Ms. Dismukes?

COMMISSIONER FIELD: Is Ms. Dismukes here or --

MR. GUARISCO: Yes.

COMMISSIONER FIELD: -- Paul Guarisco?

MR. GUARISCO: Paul and Ms. Dismukes.

MR. EDDINGTON: Commissioners, for the record, I would note that there have been requests for oral argument filed on this matter.

COMMISSIONER FIELD: And I realize they weren't able to make them timely, I guess, because the ALJ's decision didn't come out until later. I would like to hear some discussion from our staff attorney and maybe Ms. Dismukes.

CHAIRMAN OWEN: Excuse me just a second. I'm sorry. I lost track there. AT&T filed a formal motion to delay? Is that correct, Tubby?

SECRETARY ST. BLANC: That is correct, Commissioner.

CHAIRMAN OWEN: Is that what you want to address first, your concern about it?

COMMISSIONER FIELD: We can. Whatever the Chair wishes.

CHAIRMAN OWEN: Well, if we're going to delay, I don't think we ought to get into a discussion. David, do you want to speak very briefly on the reason for your request?

MR. DAVID GUERRY: I'd be delighted to, Mr. Chairman. Thank you. Commissioners, David Guerry for AT&T. We filed a motion asking the Commission to delay for a short time consideration of this docket. That motion

states several grounds, but what it boils down to, Commissioners, is that sometime ago you ordered us to complete the cost docket and the administrative law judge's recommendation has now come out and it leaves us with some work to finish that's not going to take long to do. If you look in particular at the very polar positions that South Carolina and Georgia have taken on vertical features, this Commission has now more information available to it than it did, number one, when we began this process; and, number two, when the ALJ made her decisions. What we're asking for is an opportunity to do one thing and that is to finish our work. Now, the technical reasons for that are several: (1) I firmly believe that the Commission's rules are in play in this docket. You're going to hear argument from the other side that suggests that all parties waived the Commission's rules by adopting the procedural schedule. I was at those meeting and I have a different recollection. Here's mine. Mine is that the parties agreed to the procedural schedule because you had ordered us to complete the docket by a certain time, but that all parties reserve their rights. To the extent that our rights are affected by our inability to properly comment, we deserve the right to have the time. Here's what happened that makes that important. After we finished trying the case and after our briefs are filed, but before the judge rules, the 8th Circuit rules and changes everything. Now, BellSouth properly was able to get the 8th Circuit's opinion into the record. Since the ALJ recommendation, but before your vote, the Georgia Commission has ruled vastly differently from South Carolina and from the staff's recommendation on vertical features. Absent the opportunity to properly comment and get those opinions into the record, we stand prejudiced. We have

not been able to accomplish the same record enhancement that BellSouth has. Secondly, if you believe that we have waived our rights under the rules, which I disagree with and if you believe that we are not prejudiced, then it leads to -- what that leads you to is an analysis of whether or not we have completed what you ordered us to do. And by we, I mean all the parties that sit out here in this room on the other side of you. And the answer is, no and I point no blame at anyone for that. Some of the people behind me were here from 8 to 6 during those two weeks of trial and that was a tough time. What we end up with, though, is some inconsistencies and we can finish our work, particularly on vertical features and non-recurring charges if you order the administrative law judge to complete the docket and complete trial on those issues as suggested in her opinion before the next B&E. If you order it, then she's got to upset something else she's got scheduled and we're going to have it heard and finished. We oftentimes talk privately amongst us about letting the professionals do their job. You've ordered us to do it, we got close and we did it very fast. I'm asking you for the time to finish it and to do it in an appropriate manner. Thank you.

COMMISSIONER FIELD: Mr. Guerry, let me ask you this: You feel that we completed except for the vertical features and the non-recurring cost, the record is complete on everything else?

MR. GUERRY: I think those are the major two, Commissioner. Given the opportunity to talk about it, there are a couple of things at a status conference that I'd like to ask Judge Meiners. For example, her opinion is silent on the cost to the CLEC's for access to OSS. Now, there are numbers in the record. The opinion is

just silent as to it. I'm not sure we need additional trial on that, but we do need clarification of the ruling. Deaveraged pricing is another one. She indicates that she's in favor of deaveraged -- geographic deaveraged pricing, but only by density zones, not census block groups. But there is testimony about density zones in the record, so that needs some clarification.

COMMISSIONER FIELD: Let me just ask you. Now, I'm just talking about the record being complete. Is it your opinion the record is not complete on vertical features?

MR. GUERRY: I believe -- my personal belief is that there is more than sufficient information in the record to support a finding of no additional cost. If there is going to be a determination of a cost, then I think there is additional information that needs to be had. For example, I believe the staff consultant needs to show the ALJ a run of the SCIS switching cost model which will then, I believe, show that BellSouth's investment prices are overstated. There was not time to run that model by the staff expert. The same thing happens on non-recurring costs, so those are the two major ones, though, and basically I think the most you're looking at is three days of trial and an opportunity to file briefs that address whatever's come down. And we've all talked about the fact that this is a moving target and I know that that's hard. But I don't think that a delay of that natures prejudices BellSouth, because they get a finished product for their application to the FCC. Right now, it's not a finished product. Did I answer your question?

COMMISSIONER FIELD: Yes.

CHAIRMAN OWEN: Hamby, did you want to address it?

MR. RICK HAMBY: Yes, sir. As we saw during the last discussion you had, and I don't know all the details about the bankruptcy and so forth, lawyers can say things very thoroughly and very detailed fashion and can cover several pages and Vickie is going to do that. But I'd like to speak just very briefly to you. Time is money and this is particularly true when you're dealing with an ologopoly in the long distance business in Louisiana. And that's what we have. That's not an awful, evil thing to say. We have a few people who are controlling 90% of the market in Louisiana. You've got an upstart company, BellSouth, coming in and saying, we're going to give across the board rate reductions on day one. Time is money. Delay is money in the pockets of the ologopoly. Delay is an unnecessary and unwarranted punishment for competition and for the consumers of this state. This is not a new song by the way. If you think back to April, May, June, July, August when people were lobbying you about our application for long distance. Give me 30 days, Commissioner; give me 60 days and I'm ready for competition. Let's have one more OSS demo. Let's have one more bit of discovery and I'm going to be ready. I've been ready for competition. Time is money. You're going to hear Ms. Dismukes say probably that if she had her preferences, yes, she could use more time and she said that in the hearings. She also said that really she could use another year or two years to complete all these studies. The time is now for a decision to be made on permanent, cost-based rates.

MS. VICKIE MCHENRY: I'll just add something a little more to that. I just got this motion this morning. It's not signed. I assume it was signed and filed into the record and I'm going to deal with what's in the actual motion and then the

additional comments Mr. Guerry raised. I was frankly a little bewildered by the motion. It recites the ALJ rules, which said that ordinarily the ALJ is supposed to use -- issue a proposed recommendation, there's supposed to be 15 days to file exceptions to that proposed recommendation, then she issues a final recommendation, then it comes to the Commission. All that's true, but it's also true that in every docket I've been involved in in telecommunications for about a year, those rules have all been waived because one side or the other wanted to expedite the proceedings. And, in this case, all of those were waived. We had a procedural schedule to which all parties agreed in the proceeding in view of the 60-day turn around we were under an order to follow that she would not file a proposed recommendation. She would file a final recommendation sometime within the week before the B&E meeting and everyone understood this matter was going to come to a final vote today at the expiration of 60 days. Your order expressly contemplated that and we think that's what we should do. On this vertical feature issue, yes, Georgia, made a ruling on vertical features based on the record before it. You've got a full record before you on that issue. We filed vertical cost features studies in this record in August of this year after you changed your rulings on vertical features which you had originally had said were available through resale. The 8th Circuit ruled they were unbundled network elements subject to unbundling. We immediately filed the studies. In our letter transmitting those studies, we offered the parties the opportunity to consider these studies on a separate track. The staff and all of the intervenors told us, no, they wanted to consider these studies in this docket. We put on evidence about proposed rates for

vertical features. The ALJ -- excuse me. AT&T and MCI put on evidence that there's no additional cost associated with the vertical features. Your consultant rejected our rates. She rejected the intervenors position. She found that there was a 23 cent cost associated with each feature. This is consistent with the Michigan order that you've cited in your rules and that your staff has relied on that says that each function necessary to produce a service must have an associated cost. She proposed a package rate of $8.28 for all features. There's 36 of them. That's lower than our proposed rate for all the features and it's almost about the same as what we proposed for the port and only three features. The intervenors are now sitting up here asking for more time. Telling you Kimberly needs more time to look at the vertical feature studies. All I can tell you that that was not their position throughout the course of this proceeding. Their consistent position throughout the course of this proceeding was that the vertical feature studies needed to be resolved along with the other cost studies. They've only changed their tune now at the end of the case because they don't like the ultimate rate and I don't think that's a valid basis for delay. Your staff consultant, Kimberly Dismukes, has given you a report with recommendations on each and every rate in this proceeding. I think you can proceed if it is your desire to proceed.

CHAIRMAN OWEN: Commissioner Field.

COMMISSIONER FIELD: Let me ask Ms. McHenry, you think the docket's complete on vertical features? How about on non-recurring costs?

MS. MCHENRY: There was a ton of evidence put in on non-recurring charges. We put in a cost model based on our non-recurring charges. They put in a cost

model. Your consultant adjusted -- chose to go with our cost model, made numerous adjustments to the assumptions and recommended rates. There were 34 witnesses in this proceeding, thousands of pages of evidence. More evidence than I've ever seen in any proceeding I've been involved in.

COMMISSIONER FIELD: I need your answer about the one issue. So, it's your position the record's complete on non-recurring charges?

MS. MCHENRY: That is my position.

VICE CHAIRMAN DIXON: I'm going to ask Mr. Guarisco to shed a little light on this matter for us please and then you can come on back.

CHAIRMAN OWEN: If you don't mind, let me -- Mr. Guerry wanted to respond to them. Let's let him do that quickly.

VICE CHAIRMAN DIXON: I know that, but, Guerry, you might want to wait for Mr. Guarisco, because you're going to have to respond to some of that too, but it's up you. You may choose.

MR. GUERRY: I think I'd rather go right now while I have (UNINTELLIGIBLE).

VICE CHAIRMAN DIXON: Go right ahead.

CHAIRMAN OWEN: Very briefly, David.

MR. GUERRY: Do any of you have Judge Meiners ruling in front of you, because if you'll turn to page 64 of it at the top, let me tell you what it says.

MR. HAMBY: Are we arguing your motion?

MR. GUERRY: Yes. I forego that objection to your speech. Please give me my chance. "We conclude the costing questions raised regarding vertical features

make necessary an independent analysis of BellSouth's underlying cost data. We recognize that the timing of the Commission's Order U-22252-A which necessitated for the first time that a costing analysis be conducted with regard to vertical features and the commencement of the hearing in this proceeding allowed very little opportunity for the Commission's staff witness to analyze the underlying cost data. Accordingly, we decline to establish a permanent rate for vertical features at this time and instead direct that further proceedings be undertaken with regard to the pricing of vertical features allowing Ms. Dismukes as well as all other parties to conduct discovery concerning BellSouth's underlying cost data." Now, at the conclusion of 10 days of trial, the ALJ says there's not enough in the record. Mr. Hamby and I have a wonderful time exchanging sound bites and "time is money" is an excellent one. But I would suggest to you, Commissioners, that after reading this language, maybe the more appropriate one is "show me the money." Thank you.

CHAIRMAN OWEN: Let's follow Commissioner Dixon's suggestion and get Mr. Guarisco to comment on the request for the delay.

MR. GUARISCO: Thank you. I would like to initially note that I have not -- I do not have a copy of the motion for the continuance. I was made aware that there would be a request for a continuance, but I do not have a copy of an actual motion for continuance.

VICE CHAIRMAN DIXON: Excuse me. When was it filed?

MR. GUARISCO: I don't know.

SECRETARY ST. BLANC: It was filed yesterday with the administrative law

judge section.

VICE CHAIRMAN DIXON: When was this report released?

SECRETARY ST. BLANC: Friday afternoon, late.

VICE CHAIRMAN DIXON: Thank you.

MR. GUARISCO: So, I'm not going to respond to it if there are issues in the motion for continuance with regard to what we adopted in the procedural schedule and what we didn't adopt in the procedural schedule, but I do recall that we adopted that the administrative law judge would issue a final recommendation for a vote by the full Commission pursuant to the time constraints that the Commission voted to have this docket decided on. So, the staff is ready to vote today. The staff has a Commission consultant, Ms. Kimberly Dismukes, who is here today who has filed recommendations in this docket which I just handed out as exhibits. They're labeled KHD-9 and KHD-10. Those numbers were developed by the Commission consultant, Ms. Dismukes, and they're in the record and they were available for cross-examination and they're up for a vote today. Ms. Dismukes developed those costs using the TSLRIC methodology adopted by the Commission allowing for the recovery of shared and common costs and Ms. Dismukes recommended that the Commission set the prices for the unbundled network elements in interconnection using the costs as reflected on her two exhibits which I handed each of y'all a copy. Exhibit-9 presents Ms. Dismukes recommendations for recurring cost using BellSouth's cost model. Ms. Dismukes recommends a cost for an unbundled two wire voice grade loop of $19.35. This compares to BellSouth's request of $27.15 for the same element. All elements

produced by the BellSouth's cost studies with Ms. Dismukes recommended changes to the studies are set forth in her exhibit KHD-9. For the port, Ms. Dismukes recommends a cost of $2.20. BellSouth has requested a cost of $2.61. Ms. Disukes recommended non-recurring charges and disconnect charges as shown on her exhibit KHD-10. She used BellSouth's model with regard to developing these numbers. Ms. Dismukes recommended that the disconnect charges be removed from the non-recurring charges and collected at the time of disconnection and make certain adjustments to the local rates proposed by BellSouth. With respect to the loop and the port, Ms. Dismukes recommendations reflect the cost of these elements assuming the loop and the port are not a combined offering consistent with the recent 8th Circuit ruling. Ms. Dismukes also has a column on her exhibit KHD-9 which reflects her analysis and her run of the AT&T/MCI proposed model which was called the Hatfield Model and those numbers are reflected on the column labeled "The Loop and Switch Platform Offering." The staff is recommending that the Commission adopt the rates as proposed by Ms. Dismukes at hearing as set forth in her exhibits, which I've handed you a copy. And in response to some of the specific concerns raised by the intervenors and BellSouth with regard to the vertical features issue, it is true that the ALJ recommends that the pending final determinations of prices for vertical features, the price determined by Kim Dismukes, be utilized as an interim rate subject to a true-up. At this time, staff recommends adoption of Kim Dismukes' rate of 23 cents per vertical feature for a rate of $8.28 as reflected in the staff's post hearing brief. The correct number of vertical features being 36, not 37. The